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No. 69

In the Supreme Court of the United States

OCTOBER TERM, 1930

ANNETTE AIKEN, ADMINISTRATRIX OF THE ESTATE OF FRED M. AIKEN, DECEASED, PETITIONER

v.

ROBERT H. LUCAS, COMMISSIONER OF INTERNAL REVENUE

ON WRIT OF CERTIORARI TO THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE EIGHTH CIRCUIT

MOTION TO ADVANCE

In the Supreme Court of the United States

OCTOBER TERM, 1930

No. 69

ANNETTE AIKEN, ADMINISTRATRIX OF THE ESTATE OF Fred M. Aiken, Deceased, petitioner

v.

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Comes now the respondent in the above-entitled cause, by his counsel the Solicitor General, and moves to advance this case to follow No. 23, *Charles H. Stange, Petitioner,* v. *The United States,* pending in this Court on writ of certiorari to the Court of Claims, granted on March 3, 1930.

A motion to advance is likewise filed in No. 115, *W. P. Brown & Sons Lumber Company, Petitioner,* v. *Robert H. Lucas, Commissioner of Internal Revenue,* it being the purpose of these motions to ask that the three cases referred to be heard consecutively. In support of this motion counsel submits the following statement:

No. 69, *Annette Aiken, Administratrix, Petitioner,* v. *Robert H. Lucas, Commissioner of Inter-*

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nal Revenue, is before the Court on writ of certiorari, granted May 5, 1930, to the United States Circuit Court of Appeals for the Eighth Circuit. No. 115, *W. P. Brown & Sons Lumber Company, Petitioner,* v. *Robert H. Lucas, Commissioner of Internal Revenue,* is before the Court on writ of certiorari, granted June 2, 1930, to the United States Circuit Court of Appeals for the Sixth Circuit.

The three cases present the general question whether a written consent, executed by the taxpayer and the Commissioner of Internal Revenue under the provisions of Section 250(d) of the Revenue Act of 1921 (c. 136, 42 Stat. 227, 265), extending the period of limitation upon the assessment and collection of income taxes, is valid when given after the expiration of the period of limitation.

As there are other related questions presented in each case in connection with the construction and interpretation of Section 250(d) of the Revenue Act of 1921, *supra,* it is thought the cases should not be consolidated for argument, but that it will be convenient to the Court and counsel if they are heard consecutively as separate cases in the order indicated.

Opposing counsel concur in this motion.

Respectfully submitted.

THOMAS D. THACHER,
Solicitor General.

JULY, 1930.

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